

REMARKS

Amendments to claims 29, 32, 36, and 36 are for the purpose of clarifying what Applicant regards as the invention. Claims 30 has been amended to bring this claim into conformity with the language of its base claim. Amendment to claim 50 is to incorporate a limitation from canceled claim 51. No new matter has been added.

I. Claim Rejections under § 101

Claims 32-39, and 46-49 stand rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. Claims 32, 36, and 46 have been amended as similarly suggested by the Examiner. Thus, Applicant respectfully submit that claims 32, 36, and 46, and their respective dependent claims satisfy § 101, and request that the § 101 rejection be withdrawn.

II. Claim Rejections under § 102

Claims 29-31 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 7,149,700 (Munoz). Applicant respectfully notes that in order to sustain a claim rejection under § 102, each of the claim elements must be found, either expressly or inherently, in the cited reference.

Claim 29 has been amended to recite obtaining data regarding *a result of a performance of said task*, and comparing said data with data regarding *a result of a previously performed task* for a previously created business process (Emphasis Added). Munoz does not disclose or suggest such limitations. Rather, Munoz discloses determining a “utilization ratio” using “actual hours worked,” and “total hours which *should have been* required to carry out the activities” (see column 11, line 61 to column 12, line). Notably, the total hours that “should have been required” are not a result of a

previously performed task, but are hypothetical information. Thus, Munoz discloses an actual result and a hypothetical result, and does not disclose or suggest comparing data regarding *a result of a performance of a task* with data regarding *a result of a previously performed task*. For at least the foregoing reasons, claim 29 and its dependent claims are believed allowable over Munoz.

Claim 29 also recites automatically determining an optimized *business process* based at least on said comparing (Emphasis Added). Munoz also does not disclose or suggest such limitation. Rather, Munoz discloses a method for determining a “cost” of carrying out a business process to be determined (see column 3, lines 39-43). Notably, determining a cost for a process is not the same as determining a business process because cost is merely a number representing how much resource is needed for the process, and therefore, is not itself a business process. There is nothing in Munoz that discloses or suggests determining a business process, much less, determining an optimized business process in the manner described in the claim. For these additional reasons, claim 29 and its dependent claims are believed allowable over Munoz.

Claims 1-17, 32-39, and 46-61 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Publication No. 20050096962 (Narasimhan).

Claims 1, 36, 46, and 50

Claim 1 recites that said entity model comprises information regarding a *work efficiency* of said entity (Emphasis Added). Claims 36, 46, and 50 recite similar limitations regarding a work efficiency. Claim 32 recites that said entity template comprises information regarding a *work efficiency* of said entity (Emphasis Added). Narasimhan does not disclose or suggest such limitations. Rather, Narasimhan discloses “employee data” (paragraph 14), and does not disclose or suggest a work efficiency of an entity, as recited in the claims. Also, Applicant respectfully submits

that “employee data” may be work pattern preferences or other factors for determining a roster within the context of Narashimhan, and thus, a disclosure of “employee data” does not necessitate a finding that “work efficiency” of an entity (which is more specific than merely “data”) is also disclosed. For at least the foregoing reasons, claims 1, 32, 36, 46, and 50, and their respective dependent claims, are believed allowable over Narasimhan.

Claims 53 and 58

Claim 53 recites receiving information regarding a result of an activity performed by said entity, and proposing a change in said business process based on said information. Claim 58 recites similar limitations. According to the Office Action, paragraph 37 of Narasimhan allegedly discloses the above limitations. However, the cited passage of Narasimhan actually discloses:

[0037] Business rules 204 can be incrementally refined by replacing generalized specifications with *specifications for specific cities, specific flights from specific carriers, etc.* As WorkZone 100 generates increasingly definitive information regarding *staffing requirements*, the level of detail for business rules 204 can be increased and the accuracy of Work-Model 110 can be enhanced, which can provide improved operational efficiencies. Referring again to FIG. 1, business rules 204 can be input and/or modified by management 122, which can use historical data 204c to provide the incremental refinements and increasing level of detail previously described.

(Emphasis Added)

Thus, the cited passage of Narasimhan actually discloses refining business rules 204 based on “specifications” and staffing “requirements.” Since specifications and staffing requirements are not an activity’s result, Narasimhan does not disclose or suggest the above limitations. For at least the foregoing reasons, claims 53 and 58, and their respective dependent claims, are believed allowable over Narasimhan.

Also, claims 53 and 58 describe that the business process is to be carried out by assigning a task to the entity (wherein the proposed change for the business process is based on information

regarding a result of an activity by the same entity). Thus, for the sake of argument, even assuming that the specifications and requirements in Narasimhan are somehow activity's result (which are not true), there is nothing in Narasimhan that discloses or suggests that the same entity that determines the specifications and requirements is the same entity that uses the business rules for carrying out the business process. For this additional reason, claims 53 and 58, and their respective dependent claims, are believed allowable over Narasimhan.

CONCLUSION

Based on the foregoing, all claims are in condition for allowance, which is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at the number listed below.

To the extent that any arguments and disclaimers were presented to distinguish prior art, or for other reasons substantially related to patentability, during the prosecution of any and all parent and related application(s)/patent(s), Applicant(s) hereby explicitly retracts and rescinds any and all such arguments and disclaimers, and respectfully requests that the Examiner re-visit the prior art that such arguments and disclaimers were made to avoid.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Vista IP Law Group's Deposit Account No. 50-1105, referencing billing number **LS001**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Vista IP Law Group's Deposit Account No. 50-1105, referencing billing number **LS001**.

Respectfully submitted,

Dated: October 20, 2008

By: /Gerald Chan/
Gerald Chan
Reg. No. 51,541

VISTA IP LAW GROUP, LLP
1885 Lundy Ave., Suite 108
San Jose, California 95131
Telephone: (408) 321-8663 (Ext. 203)
Facsimile: (408) 877-1662